

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

MARCOS LEON, on Behalf of Himself §
and on Behalf of All Others Similarly §
Situated, §
§
Plaintiff, §
§ CIVIL ACTION NO. : 4:20-cv-2976
V. §
§
EB ELITE POWER, LLC, D/B/A ELITE §
POWER, AND BRANDON M. MARTIN §
§
Defendants.

JOINT STIPULATION FOR CERTIFICATION

Plaintiff Marcos Leon, on behalf of himself and all other similarly situated, and Defendants EB Elite Power, LLC and Brandon M. Martin (collectively “Parties”) hereby file this Joint Stipulation for Certification and Notice and request Court approval of such stipulation by signing below in the space provided.

Under the terms of the Parties’ Stipulation, Defendants will consent to this Court certifying this matter as a collective action under the FLSA, 29 U.S.C. § 216(b). The FLSA Class Members shall consist of the following:

All unlicensed electrician helpers that worked for Defendant EB Elite Power, LLC d/b/a Elite Power from February 1, 2018 to February 1, 2021.

By agreeing to this stipulation and class definition, Defendants are not waiving their right to assert that they are not liable for all or part of any alleged damages that Plaintiff or putative opt-in Plaintiffs claim to have incurred during this time period or their right to later move for decertification.

The Parties stipulate that Beatriz Sosa-Morris and John Neuman of Sosa-Morris Neuman, PLLC shall serve as class counsel and that Marcos Leon shall serve as the representative for the class.

The Parties stipulate that within **Fourteen days (14) days** of the Court approving this stipulation by signing below, Defendants shall, to the extent available, provide to Plaintiff's counsel the names, dates of employment, last known addresses, last known personal email addresses, and last known phone numbers in Defendants' possession for all Class Members as defined above. Defendants shall provide such information in a computer-readable and manipulatable format, such as a Microsoft Excel Spreadsheet ("Class List"). The Class Members shall have 60 days after the date the Notice of Rights and agreed Consent Forms are initially sent to file a Consent to Join form opting into the litigation ("Opt-in Period"). Plaintiff shall provide opposing counsel with a notice indicating the date on which the Notice forms were sent.

The Parties stipulate that Plaintiff's counsel shall send a copy of the agreed Notice of Rights and agreed Consent Form via first class mail ("mail notice"), email ("email notice"), and text message ("text notice") to all persons contained on the list within **seven (7) days** of receiving the Class List from Defendants. The form of Notice of Rights and Consent Form are attached hereto as Exhibit "1." The Notice and Consent Form are in English and Spanish. The Parties stipulate that the Notice of Rights and Consent Form are timely, informative, and accurate.

The Parties stipulate that the mail Notice shall include a self-addressed, stamped envelope. The exterior of the mailing envelope will state "Important Notice to EB Elite Power Electricians." All Consent Forms shall be returned to Plaintiff's counsel, who will be responsible for filing the Consent Forms with the Court.

The Parties stipulate that the email Notice will include in the body of the email the Notice of Rights. The subject line of the email will read “Important Notice to EB Elite Power Electricians.” The Consent Form will be attached to the email in a PDF format and via a hyperlink. Any person desiring to join this lawsuit may execute the consent form electronically via the website www.smnlf.com/ElitePower where the consent form will be available for electronic execution. A link to the website www.smnlf.com/ElitePower shall be included in the email Notice via a hyperlink and in the body of the mail Notice. See Exhibit 1. The FLSA Class Members shall be allowed to execute either a hard copy of the Consent Form or an electronic copy of the Consent Form.

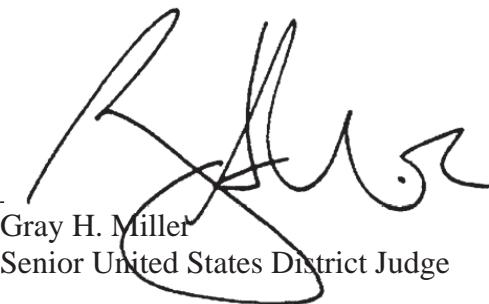
The Parties stipulate that the text Notice will state “Court Authorized Notice of Lawsuit against EB Elite Power. To learn more go to www.smnlf.com/ElitePower. ” The text Notice will include a hyperlink to the website www.smnlf.com/ElitePower where the Notice of Rights and Consent Form will be found and the Consent Form will be available for electronic execution. The Parties stipulate that no additional information shall appear on the Notice of Rights and Consent Form than what has already been agreed to between the Parties

Plaintiff’s counsel shall resend the same notice described above thirty (30) days after the initial mailing to all FLSA Class Members who have not submitted a Consent Form.

It is further stipulated that Defendants will not communicate, directly or indirectly, with any current or former employee who is part of the subject Class about any matters which touch or concern the settlement of any outstanding wage claims or other matters related to this suit during the opt-in period. This shall not restrict Defendants from discussing with any employee matters that arise in the normal course of business.

The Parties stipulate that all discovery shall be stayed during the pendency of the opt-in period in order to allow the Parties to construct a discovery plan after the number of individuals that join this case is determined.

Signed on February 12, 2021.



Gray H. Miller
Senior United States District Judge

Respectfully Submitted,

For the Plaintiff:

/s/Beatriz Sosa-Morris
Beatriz Sosa-Morris
State Bar No. 24076154
Federal Bar No. 1552137
John Neuman
JNeuman@smnlawfirm.com
State Bar No. 24083560
SOSA-MORRIS NEUMAN, PLLC
5612 Chaucer Drive
Houston, Texas 77005
Telephone: (281) 885-8630
Facsimile: (281) 885-8813

For the Defendants:

/s/Kelly Stamy
Kelly N. Stamy
KStamy@thecromeenslawfirm.com
SBOT: 24105055
FID: 3293442
The Cromeens Law Firm
8431 Katy Freeway
Houston, Texas
Tel: 713-715-7334

CERTIFICATE OF SERVICE

I certify that I filed the foregoing through the Southern District of Texas CM/ECF system on February 12, 2021 which will provide a copy to all counsel of record by electronic mail.

/s/ Beatriz Sosa-Morris
Beatriz Sosa-Morris

**COURT AUTHORIZED NOTICE TO
POTENTIAL CLASS MEMBERS**

DEADLINE TO JOIN: [REDACTED]

TO: All current and former unlicensed electrician helpers that worked for Elite Power in the last three years

RE: Lawsuit against Elite Power for Unpaid Wages

Civil Action Number: 4:20-cv-2976 pending in the United States District Court for the Southern District of Texas, Houston Division

This Notice is to inform you of a collective action lawsuit alleging violations of the Fair Labor Standards Act ("FLSA"). The Court presiding over this action has authorized the mailing of this notice to you to afford you the opportunity to join this lawsuit.

1. Why Are You Getting this Notice?

You are getting this notice because you worked for **Elite Power** as an unlicensed electrician helper at some point since February 1, 2018 to the present. A lawsuit was brought against Elite Power on August 25, 2020 alleging that you and other unlicensed electrician helpers are owed wages under federal law.

2. What is this lawsuit about?

Under the Fair Labor Standards Act, "FLSA," the federal law that controls the payment of the minimum wage and overtime, subject to certain exceptions, an employee must be paid one and one-half times his regular hourly rate of pay for every hour worked over 40 in a workweek. The plaintiff in this case alleges that Elite Power violated this rule by paying him the same hourly rate for his overtime hours as his non-overtime hours.

Elite Power denies that it has violated the law and that it owes any of the back pay, damages, costs or attorney's fees that are sought. The Court has not yet decided whether Elite Power has done anything wrong or whether this case will proceed to trial. However, you have a choice to assert your legal rights in this case.

3. Your Right to Join this case

If you fit the definition above, you may join this case (that is, you may "opt-in") by completing the "Consent to Join Collective Action" form and mailing it to the following address:

**SOSA-MORRIS NEUMAN, PLLC
ELITE POWER CASE
5612 Chaucer Drive
Houston, Texas 77005**

**Toll Free Phone: 1-844-88 LABOR (52267)
Phone: 281-885-8844
Fax: 281-885-8813**

You may also return the Consent to Join Collective Action form by faxing it to 281-885-8813 or completing the form online at www.smnlf.com/ElitePower. The form must be received by the lawyers for the Plaintiff by [REDACTED] (insert date 60 days after mailing). If you fail to timely return the Consent to Join Collective Action form, you may not be able to participate in this lawsuit and/or receive a portion of a monetary settlement, if any.

4. What are your options?

If you choose to join in this case, you are eligible to participate in a settlement for unpaid wages, if any is reached. Also, if you choose to join this case, you will be bound by a judgment ultimately entered in this case, whether it is favorable or unfavorable. If it is unfavorable, you will not owe any money. If it is favorable, you may receive a portion of the settlement fund. If you join this case, you also may be required to answer written questions, provide records, and you may have your testimony taken under oath.

If you do not wish to be a part of the lawsuit, you do not need to do anything. If you do not join the lawsuit, you will not be part of the case and will not be bound by or affected by the result, whether favorable or unfavorable. If you do not join this case, you will not be able to participate in any settlement, if any is reached, regarding the claims for unpaid overtime wages. Your decision not to join this case will not affect your right to bring a similar case on your own at a future time. However, claims under the Fair Labor Standards Act must be brought within two (2) years of the date the claim accrues, unless the employer's violation of the law was "willful," in which case the claim must be brought within three (3) years. Therefore, if you delay in filing your claim, the statute of limitations may diminish or even wipe out your claim.

The attorneys for the Plaintiff are being paid on a contingency fee basis, which means that if there is no recovery there will be no attorney's fee. The attorneys will not charge you any fees directly. If there is a recovery, the attorneys for the class will receive a part of any settlement obtained or money judgment entered in favor of all members of the class.

5. Elite Power cannot fire you for joining this lawsuit.

It is illegal for Elite Power to take any action against you for joining this lawsuit such as terminating your employment, reducing your hours, pay or benefits. That is, Elite Power cannot retaliate against you for joining this suit. If you suspect any misconduct, you may contact the attorneys for the Plaintiff identified below so that they may bring it to the court's attention immediately. This does not prevent Elite Power for terminating you for any reason unrelated to you joining this lawsuit.

6. Your legal representation if you join.

If you choose to join this suit, you will be represented by Beatriz Sosa-Morris and John Neuman of the law firm Sosa-Morris Neuman, PLLC. Their contact information is below.

7. How Can You Get More Information?

You can get more information by calling the Plaintiff's attorneys:

Beatriz Sosa-Morris

Email: bsosamorris@smnlawfirm.com

John Neuman

Email: jneuman@smnlawfirm.com

SOSA-MORRIS NEUMAN, PLLC

5612 CHAUCER DRIVE

HOUSTON, TX 77005

Telephone: (281) 885-8844

Facsimile: (281) 885-8813

THIS IS A COURT APPROVED NOTICE.

*****THIS IS NOT AN ADVERTISEMENT FROM A LAWYER*****

**CONSENT TO JOIN COLLECTIVE ACTION AND BE
REPRESENTED BY SOSA-MORRIS NEUMAN, PLLC**

- I, _____ (print name), consent to join the above styled lawsuit seeking damages for unpaid wages under the FLSA and any state wage and hour law.
- I authorized the named Plaintiff to file and prosecute the above referenced matter in my name, and on my behalf, and designate the named Plaintiff to make decisions on my behalf concerning the litigation, including negotiating a resolution of my claims, and understand I will be bound by such decisions.
- I agree to be represented by Sosa-Morris Neuman, PLLC, counsel for the named Plaintiff.
- If my consent form is stricken or if I am for any reason not allowed to participate in this case, I authorize Plaintiff's counsel to use this Consent Form to re-file my claims in a separate or related action against my employer.

Date: _____ Signature: _____

Information below this line will not be filed with the Court:

Estimated start and end dates of work: _____ to _____
(put n/a if currently employed)

Street Address: _____

City, State, Zip Code: _____

Job Title: _____

Location/s worked for Elite Power: _____

Phone: _____

Email: _____

Date of Birth: _____

Emergency Contact Name: _____

Emergency Contact Phone: _____

YOU CAN FILL OUT THIS FORM AT WWW.SMNLAWFIRM.COM/ELITEPOWER

**AVISO AUTORIZADO POR LA CORTE PARA
MIEMBROS POTENCIALES DE LA CLASE DE LITIGANTES**

FIN DE PLAZO PARA UNIRSE: _____

PARA: Todos los ayudantes de electricista sin licencia que trabajan actualmente, o han trabajado para Elite Power en los últimos tres años

RE: Demanda contra Elite Power por salarios no pagados

Número de acción civil: 4: 20-cv-2976 pendiente en el Tribunal de Distrito de los Estados Unidos para el Distrito Sur de Texas, División de Houston

Este Aviso es para informarle de una demanda colectiva que alega violaciones de la Ley de Normas Laborales Justas (Fair Labor Standards Act "FLSA"). El Tribunal que preside sobre este caso ha autorizado el envío de este aviso para brindarle la oportunidad de unirse a esta demanda.

1. ¿Por qué recibe este aviso?

Recibió este aviso porque trabajó para Elite Power como ayudante de electricista sin licencia en algún momento desde el 1 de febrero de 2018 hasta el presente. Se presentó una demanda contra Elite Power el 25 de agosto de 2020 alegando que a usted y a otros ayudantes de electricista se les debe un salario según la ley federal.

2. ¿De qué se trata esta demanda?

Bajo la ley Fair Labor Standards Act "FLSA", que es la ley federal que controla el pago del salario mínimo y el pago de las horas trabajadas en exceso de las cuarenta por semana, sujeto a ciertas excepciones, un empleado debe recibir una y media veces su salario de hora regular por cada hora que trabajó arriba de las 40 en una semana laboral. El demandante en este caso alega que Elite Power violó esta regla al pagarle la misma tarifa por hora por sus horas menos de las cuarenta que a las que trabajo arriba de las cuarenta por semana.

Elite Power niega que haya violado la ley y que adeude pagos atrasados, daños, costos o honorarios de abogados solicitados. El Tribunal aún no ha decidido si Elite Power ha hecho algo malo o si este caso pasará a juicio. Sin embargo, tiene usted la opción de hacer valer sus derechos legales en este caso.

3. Su derecho a unirse a este caso

Si se identifica en a la definición anterior, puede unirse a este caso (es decir, puede "optar por participar") completando el formulario de "Consentimiento para unirse a esta acción colectiva" y enviándolo por correo a la siguiente dirección:

**SOSA-MORRIS NEUMAN, PLLC
ELITE POWER CASE
5612 Chaucer Drive
Houston, Texas 77005**

**Toll Free Phone: 1-844-88 LABOR (52267)
Phone: 281-885-8844
Fax: 281-885-8813**

También puede devolver el formulario de Consentimiento para unirse a esta acción colectiva enviándolo por fax al 281-885-8813 o completando el formulario en línea en www.smnlf.com/ElitePower. Los abogados del demandante deben recibir el formulario antes del _____ (inserte la fecha 60 días después del envío).

Si no devuelve el formulario de Consentimiento a tiempo, es posible que no pueda participar en esta demanda y / o recibir una parte de un acuerdo monetario, si corresponde.

4. Cuales son tus opciones?

Si elige unirse en este caso, es elegible para participar en un acuerdo legal con Elite Power por su salarios no pagados, si se alcanza algún acuerdo. Además, si elige unirse a este caso, estará ligado a un juicio final en este caso, ya sea favorable o desfavorable. Si es desfavorable, no deberás ningún dinero a nadie. Si es favorable, puede recibir una parte del fondo del acuerdo legal. Si se une a este caso, es posible que también se le solicite que responda preguntas por escrito, proporcione registros y es posible que se tome su testimonio bajo juramento.

Si no desea ser parte de la demanda, no necesita hacer nada. Si no se une a la demanda, no será parte del caso y no quedará obligado ni afectado por el resultado, ya sea favorable o desfavorable. Si no se une a este caso, no podrá participar en ningún acuerdo monetario, si se llega a alguno, con respecto a los reclamos por horas arriba de las cuarenta por semana no pagadas a una y una vez el salario de horas regulares. Su decisión de no unirse a este caso no afectará su derecho a presentar un caso similar por su cuenta en el futuro. Sin embargo, los reclamos bajo la Ley de Normas Laborales Justas (“FLSA”) deben presentarse dentro de los dos (2) años posteriores a la fecha en que se acumula el reclamo, a menos que la violación de la ley por parte del empleador haya sido "intencional", en cuyo caso el reclamo debe presentarse dentro de los tres (3) años. Por lo tanto, si se demora en presentar su reclamo, el estatuto de limitaciones puede disminuir o incluso anular su reclamo.

A los abogados del demandante se les va a pagar honorarios de contingencia, lo que significa que si no hay recuperación no habrá honorarios de abogado. Los abogados no le cobrarán honorarios directamente. Si hay una recuperación, los abogados de la clase recibirán una parte de cualquier acuerdo obtenido o sentencia monetaria dictada a favor de todos los miembros de la clase.

5. Elite Power no puede despedirlo por unirse a esta demanda.

Es ilegal que Elite Power tome cualquier medida en su contra por unirse a esta demanda, como rescindir su empleo, reducir sus horas, pago o beneficios. Es decir, Elite Power no puede tomar represalias contra usted por unirse a esta demanda. Si sospecha de alguna conducta indebida, puede comunicarse con los abogados del demandante identificados a continuación para que puedan informar al tribunal de inmediato. Esto no impide que Elite Power lo despida por cualquier motivo no relacionado con su participación en esta demanda.

6. Tu representación legal si te unes.

Si elige unirse a esta demanda, estará representado por Beatriz Sosa-Morris y John Neuman del bufete de abogados Sosa-Morris Neuman, PLLC. Su información de contacto está a continuación.

7. ¿Cómo puede obtener más información?

Puede obtener más información llamando a los abogados del demandante:

Beatriz Sosa-Morris

Email: bsosamorris@smnlawfirm.com

John Neuman

Email: jneuman@smnlawfirm.com

SOSA-MORRIS NEUMAN, PLLC

5612 CHAUCER DRIVE

HOUSTON, TX 77005

Telephone: (281) 885-8844

Facsimile: (281) 885-8813

**ESTE ES UN AVISO APROBADO POR LA CORTE.
*** ESTE NO ES UN PUBLICIDAD DE UN ABOGADO *****

**CONSENTIMIENTO PARA UNIRSE A ESTA ACCIÓN COLECTIVA
Y SER REPRESENTADO POR SOSA-MORRIS NEUMAN, PLLC**

- Yo, _____ (inserta su nombre), doy mi consentimiento para unirme a la demanda de daños y perjuicios por salarios no pagados según la ley federal FLSA y cualquier ley estatal de salarios y horas.
- Autorizo al Demandante designado a presentar y procesar este asunto en mi nombre y de parte mía, y designo al Demandante designado para que tome decisiones en mi nombre con respecto al litigio, incluida la negociación de una resolución de mis reclamos, y entiendo estar ligado a esas tales decisiones.
- Acepto ser representado por Sosa-Morris Neuman, PLLC, abogado del Demandante nombrado.
- Si mi formulario de consentimiento se anula o si por alguna razón no se me permite participar en este caso, autorizo al abogado del demandante a usar este formulario de consentimiento para volver a presentar mis reclamos en una acción separada o relacionada contra mi empleador.

Dia: _____ Firma: _____

La información debajo de esta línea no se presentará al Tribunal:

Fechas estimadas de inicio y finalización del trabajo: _____ a _____
(poner n/a si todavía está trabajando con Elite)

Dirección de correo: _____

Ciudad, Estado, Código postal: _____

Título de trabajo: _____

Ubicaciones trabajadas para Elite Power: _____

Teléfono: _____

Email: _____

Fecha de nacimiento: _____

Nombre del contacto de emergencia: _____

Teléfono de contacto de emergencia: _____